

3. On page 15463, column 1, § 235.6, paragraph (c) is corrected to read as follows:

**§ 235.6 Use of Funds.**

(c) In addition to State Administrative Expense funds made available specifically for food distribution purposes under § 235.4 (b)(2) and (b)(4), State Administrative Expense funds allocated under § 235.4 (a)(1), (a)(2), (b)(1), (b)(3), and (d), and under (b)(4) for the Child and Adult Care Food Program may be used to assist in the administration of the Food Distribution Program (7 CFR part 250) in schools and institutions which participate in programs governed by parts 210, 220, and 226 of this title when such Food Distribution Program is administered within the State agency and may also be used to pay administrative expenses of a distributing agency, when such agency is other than the State agency and is responsible for administering all or part of such Food Distribution Program.

4. On page 15463, § 235.6, column 1, the paragraph (g) designation is corrected to read (d).

Dated: November 1, 1995.

William E. Ludwig,  
Administrator, Food and Consumer Service.  
[FR Doc. 95-28031 Filed 11-13-95; 8:45 am]  
BILLING CODE 3410-30-U

**7 CFR Part 248**

**WIC Farmers' Market Nutrition Program: Correction**

**AGENCY:** Food and Consumer Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** The Food and Consumer Service is correcting errors in the regulatory text of the final rule published on September 27, 1995, (60 FR 49739) entitled WIC Farmers' Market Nutrition Program.

**EFFECTIVE DATE:** November 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Barbara Hallman or Debra Whitford, Supplemental Food Programs Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 540, Alexandria, Virginia 22302, (703) 305-2730.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 27, 1995, the Department published a final rule amending and finalizing an interim rule that was published on March 11, 1994. The final rule also implemented the nondiscretionary WIC Farmers' Market

Nutrition Program mandates of Public Law 103-448, the Healthy Meals for Healthy Americans Act of 1994. However, the final rule, as published, contained errors in the regulatory text that need correction.

**Correction of Publication**

Accordingly, the final rule published at 60 FR 49739 on September 27, 1995, is corrected as follows:

1. On page 49748, column 1, § 248.14(i), line 7, "FNS" is corrected to read "FCS".
2. On page 49748, column 1, in amendatory item 9, "second" is corrected to read "first".
3. On page 49748, column 1, § 248.16(f), line 4 is corrected by removing "\* \* \*".
4. On page 49748, column 2, § 248.25(a), line 4, "FNS" is corrected to read "FCS".

Dated: November 2, 1995.

William E. Ludwig,  
Administrator, Food and Consumer Service.  
[FR Doc. 95-28029 Filed 11-13-95; 8:45 am]  
BILLING CODE 3410-30-U

**Agricultural Marketing Service**

**7 CFR Parts 1030, 1065, 1068, 1076 and 1079**

[Docket Nos. AO-361-A31, etc.; DA-92-27]

**Milk in the Chicago Regional and Other Marketing Areas; Order Amending the Orders**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

| 7 CFR part   | Marketing area                                  | AO Nos.                  |
|--------------|---|--------------------------|
| 1030<br>1065 | Chicago Regional<br>Nebraska-West-<br>ern Iowa. | AO-361-A31<br>AO-86-A50  |
| 1068<br>1076 | Upper Midwest ...<br>Eastern South<br>Dakota.   | AO-178-A48<br>AO-260-A32 |
| 1079         | Iowa .....                                      | AO-295-A44               |

**SUMMARY:** This final rule implements changes in the Federal milk marketing orders for five north central marketing areas based on industry proposals considered at a public hearing. This rule adopts a plan for pricing milk on the basis of its protein and other nonfat solids, as well as butterfat, components. The plan includes adjustments per hundredweight based on the somatic cell count of producer milk used in Class II and Class III, and on payments to producers of all pooled milk. Each of

the amended orders was approved by producers who were eligible to have their milk pooled during the representative month for voting purposes.

**EFFECTIVE DATE:** January 1, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-4829.

**SUPPLEMENTARY INFORMATION:** This administrative rule is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amended orders will promote more orderly marketing of milk by producers and regulated handlers.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or is the handler's principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

**Prior Documents in This Proceeding**

*Notice of Hearing:* Issued December 22, 1993; published January 4, 1994 (59 FR 260).

*Extension of Time for Filing Briefs:* Issued April 22, 1994; published April 29, 1994 (59 FR 22138).

*Recommended Decision:* Issued October 25, 1994; published November 2, 1994 (59 FR 54952).

*Extension of Time for Filing Exceptions:* Issued December 2, 1994; published December 9, 1994 (59 FR 63733).

*Final Decision:* Issued August 3, 1995; published August 14, 1995 (60 FR 41833).

**Findings and Determinations**

The findings and determinations hereinafter set forth supplement those that were made when the Chicago Regional and other orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, for each of the specified orders, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas. The minimum prices specified in the orders, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders, as hereby amended, regulate the handling of milk in the same manner as, and are

applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk which is marketed within each of the specified marketing areas to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

List of Subjects in 7 CFR Parts 1030, 1065, 1068, 1076, 1079

Milk marketing orders.

**Order Relative to Handling**

It is therefore ordered, that on and after the effective date hereof, the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended, as follows:

**PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA**

1. The authority citation for 7 CFR parts 1030, 1065, 1068, 1076, and 1079 continues to read as follows:

Authority: 7 U.S.C. 601–674.

1. Section 1030.30 is amended by removing paragraph (d) and revising paragraphs (a) and (c) to read as follows:

**§ 1030.30 Reports of receipts and utilization.**

\* \* \* \* \*

(a) Each handler described in § 1030.9(a) shall report for each plant of the handler (except if a handler requests and the request is approved by the market administrator, a handler may file a consolidated report for supply plants and a consolidated report for distributing plants); and each handler described in § 1030.9 (b) and (c) shall report the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handlers from the pool plant to other plants; and

(ii) Receipts of milk from handlers described in § 1030.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts by transfer or diversion of bulk fluid milk products from pool plants, including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(4);

(ii) Receipts of fluid milk products not included in paragraph (a)(1) or (a)(2)(i) of this section and bulk fluid cream products from any source;

(iii) Receipts of other source milk; and

(iv) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1030.40(b)(1);

(3) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to paragraph (a) of this section; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

\* \* \* \* \*

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

2. Section 1030.31 is amended by revising paragraph (a) to read as follows:

**§ 1030.31 Payroll reports.**

(a) On or before the 25th day after the end of each month, each handler described in § 1030.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer the information specified in § 1030.73(e).

\* \* \* \* \*

3. Section 1030.50 is amended by revising the section heading, introductory text and paragraph (a), and adding paragraphs (e) through (l) to read as follows:

**§ 1030.50 Class and component prices.**

Subject to the provisions of § 1030.52, the class prices per hundredweight of milk containing 3.5 percent butterfat

and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price for the month per hundredweight of milk containing 3.5 percent butterfat shall be the basic formula price for the second preceding month plus \$1.40.

\* \* \* \* \*

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month's Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the difference between the current month's Class II and Class III prices (this price may be negative).

(g) *Class III-A differential price.* The Class III-A differential price shall be the difference between the current month's Class III and Class III-A prices (this price may be negative).

(h) *Skim milk price.* The skim milk price per hundredweight, rounded to the nearest cent, shall be the Class III price less an amount computed by multiplying the butterfat differential by 35.

(i) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the Class III price plus an amount computed by multiplying the butterfat differential by 965 and dividing the resulting amount by one hundred.

(j) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent, shall be 1.32 times the average monthly price per pound for 40-pound block Cheddar cheese on the National Cheese Exchange as reported by the Department.

(k) *Other solids price.* Other solids are herein defined as solids-not-fat other than protein. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the basic formula price at test less the average butterfat test of the basic formula price as reported by the Department times the butterfat price, less the average protein test of the basic formula price as reported by the Department for the month times the protein price, and dividing the resulting amount by the average other solids test of the basic formula price as reported by the Department. If the resulting price is less than zero, then the protein price will be reduced so that the other solids price equals zero.

(l) *Somatic cell adjustment.*

(1) The somatic cell adjustment rate per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly cheddar cheese price as defined in paragraph (j) of this section; and

(2) The somatic cell adjustment, per hundredweight, shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk, multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

4. Section 1030.53 is revised to read as follows:

**§ 1030.53 Announcement of class and component prices.**

On or before the 5th day of the month, the market administrator shall announce the following prices:

(a) The Class I price for the following month;

(b) The Class II price for the following month;

(c) The Class III price for the preceding month;

(d) The Class III-A price for the preceding month;

(e) The skim milk price for the preceding month;

(f) The butterfat price for the preceding month;

(g) The protein price for the preceding month;

(h) The other solids price for the preceding month;

(i) The somatic cell adjustment rate for the preceding month; and

(j) The butterfat differential for the preceding month.

5. The section heading in § 1030.60 and the undesignated center heading preceding it, the introductory text, and paragraphs (a) and (f) are revised to read as follows:

**Producer Price Differential**

**§ 1030.60 Handler's value of milk.**

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler described in § 1030.9 (a), (b), and (c), as follows:

(a) Calculate the following values:

(1) Multiply the total hundredweight of producer milk in Class I as determined pursuant to § 1030.44(c) by the Class I differential price for the month;

(2) Add an amount obtained by multiplying the total hundredweight of producer milk in Class II as determined pursuant to § 1030.44(c) by the Class II differential price for the month;

(3) Add an amount obtained by multiplying the hundredweight of skim milk in Class I as determined pursuant to § 1030.44(a) by the skim milk price;

(4) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1030.44(a) by the average protein content of producer skim milk

received by the handler, and multiplying the resulting pounds of protein by the protein price;

(5) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1030.44(a) by the average other solids content of producer skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price;

(6) Add an adjustment for somatic cell content determined by multiplying the value reported pursuant to § 1030.30(a)(1) by the percentage of the total producer milk allocated pursuant to § 1030.44(c) that is allocated to Class II and Class III; and

(7) Add an amount obtained by multiplying the total hundredweight of producer milk eligible to be priced as Class III-A by the Class III-A differential price for the month;

\* \* \* \* \*

(f) Add the amount obtained from multiplying the Class I differential price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1030.43(d) and § 1030.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(11) and the corresponding steps of § 1030.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

\* \* \* \* \*

6. Section 1030.61 is amended by revising the section heading, introductory text, and paragraph (a) to read as follows:

**§ 1030.61 Producer price differential.**

For each month the market administrator shall compute a producer price differential per hundredweight for Zone 1. If the unreserved cash balance in the producer settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made the payments required pursuant to § 1030.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the

computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total for all handlers:

(1) The values computed pursuant to § 1030.60 (a)(1), (a)(2), (a)(7), and (b) through (k) for all handlers; and

(2) Add values computed pursuant to § 1030.60 (a)(3), (a)(4), (a)(5) and (a)(6); and subtract the values obtained by multiplying the handlers' total pounds of protein and total pounds of other solids contained in such milk by their respective prices, and the total value of the somatic cell adjustment;

\* \* \* \* \*

7. Section 1030.62 is revised to read as follows:

**§ 1030.62 Announcement of producer prices.**

On or before the 14th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The producer price differential;  
(b) The protein price;  
(c) The other solids price;  
(d) The butterfat price;  
(e) The somatic cell adjustment rate;  
(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

8. Section 1030.71 is amended by revising paragraph (a)(2) to read as follows:

**§ 1030.71 Payments to the producer-settlement fund.**

(a) \* \* \*

(2) The sum of:

(i) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1030.44(c) by the producer price differential as adjusted pursuant to § 1030.75;

(ii) An amount obtained by multiplying the total pounds of protein contained in producer milk by the protein price;

(iii) An amount obtained by multiplying the total pounds of other solids contained in producer milk by the other solids price;

(iv) The total value of the somatic cell adjustment to producer milk; and

(v) An amount obtained by multiplying the pounds of skim milk

and butterfat for which a value was computed pursuant to § 1030.60(f) by the producer price differential as adjusted pursuant to § 1030.52 for the location of the plant from which received.

\* \* \* \* \*

9. Section 1030.73 is amended by revising paragraphs (a), (c), and (d) and adding a new paragraph (e) to read as follows:

**§ 1030.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay each producer for producer milk received from such producer and for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the 3rd day after the end of each month, to each producer who has not discontinued shipping milk to such handler before the end of the month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the Class III price for milk of 3.5 percent butterfat for the preceding month, less proper deductions authorized in writing by such producer;

(2) On or before the 18th day after the end of the month, payment for producer milk received during such month shall not be less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to §§ 1030.75 and 1030.86;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a) of this section; and

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer; and

(3) If by such date the handler has not received full payment from the market administrator pursuant to § 1030.72 for such month, it may reduce pro rata its payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to paragraph (a) of this section next following receipt of the balance due from the market administrator.

\* \* \* \* \*

(c) Each handler shall pay a cooperative association for milk received by the handler from pool plant(s) operated by a cooperative association as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the Class III price for milk of 3.5 percent butterfat for the preceding month; and

(2) For milk received and classified during the month the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received as follows:

(i) The hundredweight of Class I milk received times the Class I differential price for the month plus the pounds of Class I skim milk times the skim milk price for the month;

(ii) The hundredweight of Class II milk received times the Class II differential price for the month;

(iii) The hundredweight of Class III-A milk received times the Class III-A differential price for the month;

(iv) The pounds of butterfat received times the butterfat price for the month;

(v) The pounds of protein received in Class II and Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class II and Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II and Class III milk received times the somatic cell adjustment; and

(viii) Less any payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for milk received by the handler from a cooperative association acting as a handler described under § 1030.9(c) as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the Class III price for milk of 3.5 percent butterfat for the preceding month; and

(2) For milk received during the month the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received as follows:

(i) The hundredweight of milk received times the producer price

differential as adjusted pursuant to § 1030.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (d)(1) of this section; and

(vii) Less proper authorized deductions.

(e) In making payments for producer milk pursuant to paragraphs (a)(2) or (b)(2) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and the identity of the producer;

(2) The daily and total pounds for each producer;

(3) The total pounds of butterfat contained in the producer's milk;

(4) The total pounds of protein contained in the producer's milk;

(5) The total pounds of other solids contained in the producer's milk;

(6) The somatic cell count of the producer's milk;

(7) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(8) The rate that is used in making payment if such rate is other than the applicable minimum rate;

(9) The amount, or the rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(10) The net amount of payment to such producer or cooperative.

10. Sections 1030.74 and 1030.75 are revised to read as follows:

#### **§ 1030.74 Butterfat differential.**

The butterfat differential, rounded to the nearest one-tenth cent, shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1030.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price as reported by the Department.

#### **§ 1030.75 Plant location adjustments for producers and on nonpool milk.**

(a) The producer price differential for producer milk received at a plant shall be adjusted according to the location of the plant at the rates set forth in § 1030.52(a).

(b) The producer price differential applicable to other source milk shall be adjusted at the rates set forth in § 1030.52(a), except that the adjusted producer differential price shall not be less than zero.

11. Section 1030.76 is amended by removing the reference "§ 1030.71(a)(2)(ii)" in paragraph (b)(1)(iii) and adding in its place "§ 1030.71(a)(2)(v)" and revising paragraph (a)(4) and the third sentence of paragraph (b)(1)(ii) to read as follows:

#### **§ 1030.76 Payments by handler operating a partially regulated distributing plant.**

\* \* \* \* \*

(a) \* \* \*

(4) Multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant; and

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1030.60 shall be priced at the statistical uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such statistical uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

\* \* \* \* \*

#### **PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA**

1. Section 1065.30 is amended by removing paragraph (d) and revising paragraphs (a) and (c) to read as follows:

#### **§ 1065.30 Reports of receipts and utilization.**

\* \* \* \* \*

(a) Each handler described in § 1065.9 (a), (b), and (c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of

solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1065.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts by transfer or diversion of bulk fluid milk products from pool plants;

(ii) Receipts of fluid milk products not included in paragraph (a)(1) or (a)(2)(i) of this section and bulk fluid cream products from any source;

(iii) Receipts of other source milk; and

(iv) Inventories at the beginning and end of the month of fluid milk products and products specified in

§ 1065.40(b)(1);

(3) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to paragraph (a) of this section; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

\* \* \* \* \*

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

2. Section 1065.31 is amended by revising paragraph (a) to read as follows:

#### **§ 1065.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1065.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1065.73(e).

\* \* \* \* \*

3. Section 1065.50 is amended by revising the section heading, introductory text and paragraph (a), and adding paragraphs (e) through (l) to read as follows:

#### **§ 1065.50 Class and component prices.**

Subject to the provisions of § 1065.52, the class prices per hundredweight of milk containing 3.5 percent butterfat and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price for the month per hundredweight of milk containing 3.5 percent butterfat shall be

the basic formula price for the second preceding month plus \$1.75.

\* \* \* \* \*

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month's Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the difference between the current month's Class II and Class III prices (this price may be negative).

(g) *Class III-A differential price.* The Class III-A differential price shall be the difference between the current month's Class III and Class III-A prices (this price may be negative).

(h) *Skim milk price.* The skim milk price per hundredweight, rounded to the nearest cent, shall be the Class III price less an amount computed by multiplying the butterfat differential by 35.

(i) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the Class III price plus an amount computed by multiplying the butterfat differential by 965 and dividing the resulting amount by one hundred.

(j) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent, shall be 1.32 times the average monthly price per pound for 40-pound block Cheddar cheese on the National Cheese Exchange as reported by the Department.

(k) *Other solids price.* Other solids are herein defined as solids not fat other than protein. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the basic formula price at test less the average butterfat test of the basic formula price as reported by the Department times the butterfat price, less the average protein test of the basic formula price as reported by the Department for the month times the protein price, and dividing the resulting amount by the average other solids test of the basic formula price as reported by the Department. If the resulting price is less than zero, then the protein price will be reduced so that the other solids price equals zero.

(l) *Somatic cell adjustment.*

(1) The somatic cell adjustment rate, per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly cheddar cheese price as defined in paragraph (j) of this section; and

(2) The somatic cell adjustment, per hundredweight, shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk,

multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

4. Section 1065.53 is revised to read as follows:

**§ 1065.53 Announcement of class and component prices.**

On or before the 5th day of the month, the market administrator shall announce the following prices:

(a) The Class I price for the following month;

(b) The Class II price for the following month;

(c) The Class III price for the preceding month;

(d) The Class III-A price for the preceding month;

(e) The skim milk price for the preceding month;

(f) The butterfat price for the preceding month;

(g) The protein price for the preceding month;

(h) The other solids price for the preceding month;

(i) The somatic cell adjustment rate for the preceding month; and

(j) The butterfat differential for the preceding month.

5. The section heading in § 1065.60 and the undesignated center heading preceding it, the introductory text, and paragraphs (a) and (f) are revised to read as follows:

**Producer Price Differential**

**§ 1065.60 Handler's value of milk.**

For the purpose of computing a handler's obligation for milk the market administrator shall determine for each month the value of milk of each handler described in § 1065.9(a) with respect to each of its pool plants and each handler described in § 1065.9 (b) and (c).

(a) The handler's obligation for producer milk shall be computed as follows:

(1) Multiply the total hundredweight of milk in Class I as determined pursuant to § 1065.44(c) by the Class I differential price for the month;

(2) Add an amount obtained by multiplying the total hundredweight of milk in Class II as determined pursuant to § 1065.44(c) by the Class II differential price for the month;

(3) Add an amount obtained by multiplying the hundredweight of skim milk in Class I as determined pursuant to § 1065.44(a) by the skim milk price;

(4) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1065.44(a) by the average protein content of producer skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price;

(5) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1065.44(a) by the average other solids content of producer skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price;

(6) Add an adjustment for somatic cell content determined by multiplying the value reported pursuant to § 1065.30(a)(1) by the percentage of the total producer milk allocated pursuant to § 1065.44(c) that is allocated to Class II and Class III; and

(7) Add an amount obtained by multiplying the total hundredweight of producer milk eligible to be priced as Class III-A by the Class III-A differential price for the month;

\* \* \* \* \*

(f) Add the amount obtained from multiplying the Class I differential price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1065.43(d) and § 1065.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(11) and the corresponding steps of § 1065.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

\* \* \* \* \*

6. Section 1065.61 is amended by revising the section heading, introductory text, and paragraphs (a) and (f) to read as follows:

**§ 1065.61 Producer price differential.**

For each month the market administrator shall compute a producer price differential per hundredweight of milk received from producers, as follows:

(a) Combine into one total for all handlers:

(1) The values computed pursuant to § 1065.60 (a)(1), (a)(2), (a)(7) and (b) through (i) for all handlers; and

(2) Add values computed pursuant to § 1065.60 (a)(3), (a)(4), (a)(5) and (a)(6); and subtract the values obtained by multiplying the handlers' total pounds of protein and total pounds of other solids contained in such milk by their

respective prices, and the total value of the somatic cell adjustment;

\* \* \* \* \*

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be the "producer price differential."

7. Section 1065.62 is revised to read as follows:

**§ 1065.62 Announcement of producer prices.**

On or before the 12th day after the end of each month, the market administrator shall announce the following prices and information:

- (a) The producer price differential;
- (b) The protein price;
- (c) The other solids price;
- (d) The butterfat price;
- (e) The somatic cell adjustment rate;
- (f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

8. Section 1065.71 is amended by revising paragraph (a)(2) to read as follows:

**§ 1065.71 Payments to the producer-settlement fund.**

(a) \* \* \*

(2) The sum of:

(i) An amount obtained by multiplying the total hundredweight of producer milk determined pursuant to § 1065.44(c) by the producer price differential as adjusted pursuant to § 1065.75;

(ii) An amount obtained by multiplying the total pounds of protein contained in producer milk by the protein price;

(iii) An amount obtained by multiplying the total pounds of other solids contained in producer milk by the other solids price;

(iv) The total value of the somatic cell adjustment to producer milk; and

(v) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1065.60(f) by the producer price differential as adjusted pursuant to § 1065.52 for the location of the plant from which received.

\* \* \* \* \*

9. Section 1065.73 is amended by revising paragraphs (a), (c), (d) and (e) to read as follows:

**§ 1065.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay for milk received from producers for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the 27th day of the month, to each producer who has not discontinued shipping milk to such handler before the end of the month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the statistical uniform price computed pursuant to § 1065.62(g) for the preceding month, less proper deductions authorized in writing by such producer; and

(2) On or before the 18th day after the end of the month, payment for producer milk received during such month shall not be less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1065.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer;

(viii) Less deductions for marketing services pursuant to 1065.86 and for advertising and promotion pursuant to § 1065.107; and

(ix) If by such date the handler has not received full payment from the market administrator pursuant to § 1065.72 for such month, it may reduce pro rata its payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to paragraph (a) of this section next following receipt of the balance due from the market administrator.

\* \* \* \* \*

(c) Each handler shall pay a cooperative association for milk received by the handler from a cooperative association acting as a handler described in § 1065.9(c) as follows:

(1) For milk received during the first 15 days of the month, the handler shall

pay the cooperative association on or before the 26th day of the month during which the milk was received at a rate per hundredweight not less than the statistical uniform price computed pursuant to § 1065.62(g) for the preceding month; and

(2) For milk received during the month the handler shall pay the cooperative association on or before the 17th day after the end of the month during which the milk was received as follows:

(i) The hundredweight of milk received times the producer price differential applicable at the location of the receiving handler's plant;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Less any payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for fluid milk products received by transfer or diversion from a pool plant operated by the cooperative association as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 26th day of the month during which the milk was received at a rate per hundredweight not less than the Class III price for the preceding month; and

(2) For milk received and classified during the month the handler shall pay the cooperative association on or before the 17th day after the end of the month during which the milk was received as follows:

(i) The hundredweight of Class I milk received times the Class I differential price for the month applicable at the transferee plant, plus the pounds of Class I skim milk times the skim milk price for the month;

(ii) The hundredweight of Class II milk received times the Class II differential price for the month;

(iii) The hundredweight of Class III-A milk received times the Class III-A differential price for the month;

(iv) The pounds of butterfat received times the butterfat price for the month;

(v) The pounds of protein received in Class II and Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class II and Class III milk times the other solids price for the month;



(vii) The hundredweight of Class II and Class III milk received times the somatic cell adjustment; and

(viii) Less any payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments for producer milk pursuant to paragraphs (a)(2) or (b)(2) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and the identity of the producer;

(2) The daily and total pounds for each producer;

(3) The total pounds of butterfat contained in the producer's milk;

(4) The total pounds of protein contained in the producer's milk;

(5) The total pounds of other solids contained in the producer's milk;

(6) The somatic cell count of the producer's milk;

(7) The minimum rate or rates which payment to the producer is required pursuant to this order;

(8) The rate that is used in making payment if such rate is other than the applicable minimum rate;

(9) The amount, or the rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(10) The net amount of payment to such producer or cooperative.

\* \* \* \* \*

10. Sections 1065.74 and 1065.75 are revised to read as follows:

**§ 1065.74 Butterfat differential.**

The butterfat differential, rounded to the nearest one-tenth cent, shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1065.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price as reported by the Department.

**§ 1065.75 Plant location adjustments for producers and on nonpool milk.**

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant of actual receipt at the rates set forth in § 1065.52.

(b) For purposes of computations pursuant to §§ 1065.71 and 1065.72, the producer price differential shall be

adjusted at the rates set forth in § 1065.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted producer price differential shall not be less than zero.

11. Section 1065.76 is amended by removing the reference "§ 1065.71(a)(2)(ii)" in paragraph (b)(1)(iii) and adding in its place "§ 1065.71(a)(2)(v)" and revising paragraph (a)(4) and the third sentence of paragraph (b)(1)(ii) to read as follows:

**§ 1065.76 Payments by handler operating a partially regulated distributing plant.**

\* \* \* \* \*

(a) \* \* \*

(4) Multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant, with the difference to be not less than zero; and

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1065.60 shall be priced at the statistical uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such statistical uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

\* \* \* \* \*

**PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA**

1. Section 1068.30 is amended by removing paragraph (d) and revising paragraphs (a) and (c) to read as follows:

**§ 1068.30 Reports of receipts and utilization.**

\* \* \* \* \*

(a) Each handler described in § 1068.9 (a), (b), and (c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1068.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts by transfer or diversion of bulk fluid milk products from pool plants;

(ii) Receipts of fluid milk products not included in paragraph (a)(1) or (a)(2)(i) of this section and bulk fluid cream products from any source;

(iii) Receipts of other source milk; and

(iv) Inventories at the beginning and end of the month of fluid milk products and products specified in

§ 1068.40(b)(1);

(3) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to paragraph (a) of this section; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

\* \* \* \* \*

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

2. Section 1068.31 is amended by revising paragraph (a) to read as follows:

**§ 1068.31 Payroll reports.**

(a) On or before the 22nd day of each month, each handler described in § 1068.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1068.73(f).

\* \* \* \* \*

3. Section 1068.50 is amended by revising the section heading, introductory text and paragraph (a), and adding paragraphs (e) through (l) to read as follows:

**§ 1068.50 Class and component prices.**

Subject to the provisions of § 1068.52, the class prices per hundredweight of milk containing 3.5 percent butterfat and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.20.

\* \* \* \* \*

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month's Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the



difference between the current month's Class II and Class III prices (this price may be negative).

(g) *Class III-A differential price.* The Class III-A differential price shall be the difference between the current month's Class III and Class III-A prices (this price may be negative).

(h) *Skim milk price.* The skim milk price per hundredweight, rounded to the nearest cent, shall be the Class III price less an amount computed by multiplying the butterfat differential by 35.

(i) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the Class III price plus an amount computed by multiplying the butterfat differential by 965 and dividing the resulting amount by one hundred.

(j) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent, shall be 1.32 times the average monthly price per pound for 40-pound block Cheddar cheese on the National Cheese Exchange as reported by the Department.

(k) *Other solids price.* Other solids are herein defined as solids-not-fat other than protein. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the basic formula price at test less the average butterfat test of the basic formula price as reported by the Department times the butterfat price, less the average protein test of the basic formula price as reported by the Department for the month times the protein price, and dividing the resulting amount by the average other solids test of the basic formula price as reported by the Department. If the resulting price is less than zero, then the protein price will be reduced so that the other solids price equals zero.

(l) *Somatic cell adjustment.* (1) The somatic cell adjustment rate, per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly cheddar cheese price as defined in paragraph (j) of this section; and

(2) The somatic cell adjustment per hundredweight shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk, multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

4. Section 1068.53 is revised to read as follows:

**§ 1068.53 Announcement of class and component prices.**

On or before the 5th day of the month, the market administrator shall announce the following prices:

(a) The Class I price for the following month;

(b) The Class II price for the following month;

(c) The Class III price for the preceding month;

(d) The Class III-A price for the preceding month;

(e) The skim milk price for the preceding month;

(f) The butterfat price for the preceding month;

(g) The protein price for the preceding month;

(h) The other solids price for the preceding month;

(i) The somatic cell adjustment rate for the preceding month; and

(j) The butterfat differential for the preceding month.

5. The section heading in § 1068.60 and the undesignated center heading preceding it, the introductory text, and paragraphs (a), (f), and (g) are revised to read as follows:

**Producer Price Differential**

**§ 1068.60 Handler's value of milk.**

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler described in § 1068.9 (a), (b), and (c).

(a) The handler's obligation for producer milk shall be computed as follows:

(1) Multiply the total hundredweight of producer milk in Class I as determined pursuant to § 1068.43(a) and § 1068.44(c) by the Class I differential price for the month;

(2) Add an amount obtained by multiplying the total hundredweight of producer milk in Class II as determined pursuant to § 1068.43(a) and § 1068.44(c) by the Class II differential price for the month;

(3) Add an amount obtained by multiplying the hundredweight of skim milk in Class I as determined pursuant to § 1068.43(a) and § 1068.44(a) by the skim milk price;

(4) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1068.43(a) and § 1068.44(a) by the average protein content of producer skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price;

(5) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1068.43(a) and § 1068.44(a) by the average other solids content of producer skim milk received

by the handler, and multiplying the resulting pounds of other solids by the other solids price;

(6) Add an adjustment for somatic cell content determined by multiplying the value reported pursuant to § 1068.30(a)(1) by the percentage of the total producer milk assigned to Class II and Class III pursuant to §§ 1068.43(a) and 1068.44(c); and

(7) Add an amount obtained by multiplying the total hundredweight of producer milk eligible to be priced as Class III-A by the Class III-A differential price for the month;

\* \* \* \* \*

(f) Add the amount obtained from multiplying the Class I differential price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1068.43(e) and § 1068.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(11) and the corresponding steps of § 1068.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for a handler described in § 1068.9(c), the amount charged the preceding month for the skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month;

\* \* \* \* \*

6. Section 1068.61 is amended by revising the section heading, introductory text, and paragraphs (a) and (e) to read as follows:

**§ 1068.61 Producer price differential.**

For each month the market administrator shall compute a producer price differential per hundredweight of milk as follows:

(a) Combine into one total for all handlers:

(1) The estimated values computed pursuant to § 1068.60 (a)(1), (a)(2), (a)(7), and (b) through (j) for all handlers; and

(2) Add the estimated values computed pursuant to § 1068.60 (a)(3), (a)(4), (a)(5), and (a)(6); and subtract the values obtained by multiplying the handlers' total pounds of protein and

total pounds of other solids contained in such milk by their respective prices, and the total value of the somatic cell adjustment;

\* \* \* \* \*

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be the "producer price differential" for milk received from producers.

7. Section 1068.62 is revised to read as follows:

**§ 1068.62 Announcement of producer prices.**

On or before the 12th day after the end of each month, the market administrator shall announce the following prices and information:

- (a) The producer price differential;
- (b) The protein price;
- (c) The other solids price;
- (d) The butterfat price;
- (e) The somatic cell adjustment rate;
- (f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

8. Section 1068.71 is amended by revising paragraph (a) to read as follows:

**§ 1068.71 Payments to the producer-settlement fund.**

(a) On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1068.60.

(2) The sum of:

(i) The value of such handler's receipts of producer milk and milk received from a handler described in § 1068.9(c). In the case of a handler described in § 1068.9(c), less the amount due from other handlers pursuant to § 1068.73(d). The value of producer milk shall be computed as follows:

(A) An amount obtained by multiplying the total hundredweight of producer milk by the producer price differential as adjusted pursuant to § 1068.75;

(B) An amount obtained by multiplying the total pounds of protein contained in producer milk by the protein price;

(C) An amount obtained by multiplying the total pounds of other solids contained in producer milk by the other solids price; and

(D) The total value of the somatic cell adjustment to producer milk; and

(ii) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1068.60(f) by the producer price differential as adjusted pursuant to § 1068.52 for the location of the plant from which received.

\* \* \* \* \*

9. Sections 1068.73, 1068.74, and 1068.75 are revised to read as follows:

**§ 1068.73 Payments to producers and to cooperative associations.**

Each handler shall pay for milk received from producers or cooperative associations as follows:

(a) On or before the 25th day of the month, each handler shall pay for skim milk and butterfat received during the first 15 days of the month from a cooperative association:

(1) That is a handler pursuant to § 1068.9(a), at not less than the Class I price for the month at the location of the transferee or transferor plant, whichever is higher, adjusted by the butterfat differential for the preceding month;

(2) That is a handler pursuant to § 1068.9(c), at not less than the statistical uniform price at its plant location for the preceding month, adjusted by the butterfat differential for the preceding month; and

(3) That is not a handler but which is authorized to collect payment on behalf of its member producers and has requested that payment be made to it in aggregate, at not less than the statistical uniform price at its plant location for the preceding month, adjusted by the butterfat differential for the preceding month.

(b) On or before the 4th day after the end of the month, each handler shall pay for skim milk and butterfat received during the first 15 days of the month from a producer for whom payment is not being made pursuant to paragraph (a) of this section and who has not discontinued shipping to such handler, at not less than the statistical uniform price at its plant location for the preceding month, adjusted by the butterfat differential for the preceding month.

(c) On or before the 11th day after the end of the month, each handler shall pay for milk received and classified during the month from a cooperative association which is a handler pursuant to § 1068.9(a) adjusted at the location of the transferee or transferor plant, whichever is higher, payment shall be determined as follows:

(1) The hundredweight of Class I milk received times the Class I differential

price for the month plus the pounds of Class I skim milk times the skim milk price for the month;

(2) The hundredweight of Class II milk received times the Class II differential price for the month;

(3) The hundredweight of Class III-A milk received times the Class III-A differential price for the month;

(4) The pounds of butterfat received times the butterfat price for the month;

(5) The pounds of protein received in Class II and Class III milk times the protein price for the month;

(6) The pounds of other solids received in Class II and Class III milk times the other solids price for the month;

(7) The hundredweight of Class II and Class III milk received times the somatic cell adjustment; and

(8) Less any payment made pursuant to paragraph (a)(1) of this section.

(d) On or before the 18th day after the end of the month, each handler shall make payment as described in paragraph (d)(4) of this section to:

(1) A cooperative association that is a handler pursuant to § 1068.9(c);

(2) A cooperative association that is not a handler but which is authorized to collect payment on behalf of its member producers and has requested that payment be made to it in aggregate;

(3) A producer for whom payment is not being made pursuant to paragraphs (d) (1) and (2) of this section; and

(4) Payment shall be determined by:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1068.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Less any payment made pursuant to paragraph (a) or (b) of this section.

(e) In making payments pursuant to paragraphs (a) (2) and (3), (b) and (d) of this section, deductions may be made for marketing services pursuant to § 1068.86 and for any proper deductions authorized by the producer. In the event a handler has not received full payment from the market administrator pursuant to § 1068.72 by the 18th day of the month, the handler may reduce pro rata its payments to producers pursuant to paragraph (d) of this section by not more than the amount of such underpayment. Following receipt of the balance due from the market administrator, the

handler shall complete payments to producers not later than the next payment date provided under this section.

(f) In making payment to individual producers as required by this section, each handler shall furnish each producer from whom it received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and producer;

(2) The total pounds of milk received from the producer;

(3) The total pounds of butterfat contained in the producer's milk;

(4) The total pounds of protein contained in the producer's milk;

(5) The total pounds of other solids contained in the producer's milk;

(6) The somatic cell count of the producer's milk;

(7) The minimum rate or rates at which payment to the producer is required pursuant to this section;

(8) The rate that is used in making payment if such rate is other than the applicable minimum;

(9) The amount, or the rate per hundredweight, or rate per pound of component, of each deduction claimed by the handler, including any deduction claimed under § 1068.86, together with a description of the respective deductions; and

(10) The net amount of the payment to the producer.

#### **§ 1068.74 Butterfat differential.**

The butterfat differential, rounded to the nearest one-tenth cent, shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1068.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price as reported by the Department.

#### **§ 1068.75 Plant location adjustments for producers and on nonpool milk.**

(a) The producer price differential for producer milk received at a pool plant or delivered to a nonpool plant shall be adjusted according to the location of the plant of actual receipt at the rates set forth in § 1068.52.

(b) The producer price differential applicable to other source milk shall be adjusted at the rates set forth in § 1068.52, except that the adjusted producer price differential shall not be less than zero.

10. Section 1068.76 is amended by revising paragraph (a)(4) and the third sentence of paragraph (b)(1)(ii) to read as follows:

#### **§ 1068.76 Payments by handler operating a partially regulated distributing plant.**

\* \* \* \* \*

(a) \* \* \*

(4) Multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant, with the difference to be not less than zero; and

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1068.60 shall be priced at the statistical uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such statistical uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

\* \* \* \* \*

#### **§ 1068.85 [Amended]**

11. Section 1068.85 is amended by removing the word "15th" in the introductory text and adding in its place "16th".

#### **§ 1068.86 [Amended]**

12. Section 1068.86 is amended by removing the word "15th" in paragraphs (a) and (b) and adding in its place "16th".

### **PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA**

1. Section 1076.30 is amended by removing paragraph (d) and revising paragraphs (a) and (c) to read as follows:

#### **§ 1076.30 Reports of receipts and utilization.**

\* \* \* \* \*

(a) Each handler described in § 1076.9(a), (b), and (c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell

adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1076.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts by transfer or diversion of bulk fluid milk products from pool plants;

(ii) Receipts of fluid milk products not included in paragraph (a)(1) or (a)(2)(i) of this section and bulk fluid cream products from any source;

(iii) Receipts of other source milk; and

(iv) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1076.40(b)(1);

(3) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to paragraph (a) of this section; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

\* \* \* \* \*

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

2. Section 1076.31 is amended by revising paragraph (a) to read as follows:

#### **§ 1076.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1076.9(a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1076.73(e).

\* \* \* \* \*

3. Section 1076.50 is amended by revising the section heading, introductory text and paragraph (a), adding and reserving paragraph (d), and adding paragraphs (e) through (l):

#### **§ 1076.50 Class and component prices.**

Subject to the provisions of § 1076.52, the class prices per hundredweight of milk containing 3.5 percent butterfat and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price for the month per hundredweight of milk containing 3.5 percent butterfat shall be

the basic formula price for the second preceding month plus \$1.50.

\* \* \* \* \*

(d) [Reserved].

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the difference between the current month Class II and Class III prices (this price may be negative).

(g) [Reserved].

(h) *Skim milk price.* The skim milk price per hundredweight, rounded to the nearest cent, shall be the Class III price less an amount computed by multiplying the butterfat differential by 35.

(i) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the Class III price plus an amount computed by multiplying the butterfat differential by 965 and dividing the resulting amount by one hundred.

(j) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent, shall be 1.32 times the average monthly price per pound for 40-pound block Cheddar cheese on the National Cheese Exchange as reported by the Department.

(k) *Other solids price.* Other solids are herein defined as solids-not-fat other than protein. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the basic formula price at test less the average butterfat test of the basic formula price as reported by the Department times the butterfat price, less the average protein test of the basic formula price as reported by the Department for the month times the protein price, and dividing the resulting amount by the average other solids test of the basic formula price as reported by the Department. If the resulting price is less than zero, then the protein price will be reduced so that the other solids price equals zero.

(l) *Somatic cell adjustment.* (1) The somatic cell adjustment rate, per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly Cheddar cheese price as defined in paragraph (j) of this section; and

(2) The somatic cell adjustment, per hundredweight, shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk, multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

4. Section 1076.53 is revised to read as follows:

**§ 1076.53 Announcement of class and component prices.**

On or before the 5th day of the month, the market administrator shall announce the following prices:

(a) The Class I price for the following month;

(b) The Class II price for the following month;

(c) The Class III price for the preceding month;

(d) [Reserved];

(e) The skim milk price for the preceding month;

(f) The butterfat price for the preceding month;

(g) The protein price for the preceding month;

(h) The other solids price for the preceding month;

(i) The somatic cell adjustment rate for the preceding month; and

(j) The butterfat differential for the preceding month.

5. The section heading in § 1076.60 and the undesignated center heading preceding it, the introductory text, and paragraphs (a) and (f) are revised to read as follows:

**Producer Price Differential**

**§ 1076.60 Handler's value of milk.**

For the purpose of computing a handler's obligation for milk, the market administrator shall determine for each month the value of milk of each handler described in § 1076.9(a) with respect to each of its pool plants and each handler described in § 1076.9 (b) and (c).

(a) The handler's obligation for producer milk and milk received from a handler described in § 1076.9(c) shall be computed as follows:

(1) Multiply the total hundredweight of milk in Class I as determined pursuant to § 1076.43(a) and § 1076.44(c) by the Class I differential price for the month;

(2) Add an amount obtained by multiplying the total hundredweight of milk in Class II as determined pursuant to § 1076.43(a) and § 1076.44(c) by the Class II differential price for the month;

(3) Add an amount obtained by multiplying the hundredweight of skim milk in Class I as determined pursuant to § 1076.43(a) and § 1076.44(a) by the skim milk price;

(4) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1076.43(a) and § 1076.44(a) by the average protein content of the skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price;

(5) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1076.43(a) and § 1076.44(a) by the average other solids content of the skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price; and

(6) Add an adjustment for somatic cell content determined by multiplying the value reported pursuant to § 1076.30(a)(1) by the percentage of the total producer milk assigned to Class II and Class III pursuant to §§ 1076.43(a) and 1076.44(c);

\* \* \* \* \*

(f) Add the amount obtained from multiplying the Class I differential price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1076.43(d) and § 1076.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(11) and the corresponding steps of § 1076.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

\* \* \* \* \*

6. Section 1076.61 is amended by revising the section heading, introductory text, and paragraphs (a) and (e) to read as follows:

**§ 1076.61 Producer price differential.**

For each month the market administrator shall compute a producer price differential per hundredweight of milk received from producers as follows:

(a) Combine into one total for all handlers:

(1) The values computed pursuant to § 1076.60 (a)(1), (a)(2), and (b) through (i) for all handlers; and

(2) Add values computed pursuant to § 1076.60(a)(3), (a)(4), (a)(5) and (a)(6); and subtract the values obtained by multiplying the handlers' total pounds of protein and total pounds of other solids contained in such milk by their respective prices, and the total value of the somatic cell adjustment;

\* \* \* \* \*

(e) Subtract not less than 4 cents nor more than 5 cents from the price

computed pursuant to paragraph (d) of this section. The result shall be the "producer price differential."

7. Section 1076.62 is revised to read as follows:

**§ 1076.62 Announcement of producer prices.**

On or before the 12th day after the end of each month, the market administrator shall announce the following prices and information:

- (a) The producer price differential;
- (b) The protein price;
- (c) The other solids price;
- (d) The butterfat price;
- (e) The somatic cell adjustment rate;
- (f) The average butterfat, protein and other solids content of producer milk and milk received from a handler described in § 1076.9(c); and
- (g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

8. Section 1076.71 is amended by revising paragraph (a)(2) to read as follows:

**§ 1076.71 Payments to the producer-settlement fund.**

- (a) \* \* \*
- (2) The sum of:
  - (i) An amount obtained by multiplying the total hundredweight of producer milk and milk received from a handler described in § 1076.9(c) by the producer price differential as adjusted pursuant to § 1076.75;
  - (ii) An amount obtained by multiplying the total pounds of protein contained in producer milk and milk received from a handler described in § 1076.9(c) by the protein price;
  - (iii) An amount obtained by multiplying the total pounds of other solids contained in producer milk and milk received from a handler described in § 1076.9(c) by the other solids price;
  - (iv) The total value of the somatic cell adjustment to producer milk and milk received from handlers described in § 1076.9(c); and
  - (v) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1076.60(f) by the producer price differential as adjusted pursuant to § 1076.52 for the location of the plant from which received.

\* \* \* \* \*

**§ 1076.72 [Amended]**

9. Section 1076.72 is amended by removing the last sentence.

10. Section 1076.73 is amended by revising paragraphs (a), (c), (d) and (e) to read as follows:

**§ 1076.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay each producer for milk received from producers for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of the month, payment for producer milk received during such month shall not be less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1076.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer;

(viii) Less deductions for marketing services pursuant to § 1076.86; and

(ix) If by such date the handler has not received full payment from the market administrator pursuant to § 1076.72 for such month, it may reduce pro rata its payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to paragraph (a) of this section next following receipt of the balance due from the market administrator.

\* \* \* \* \*

(c) Each handler shall pay a cooperative association for milk received by the handler from a cooperative association acting as a handler described in § 1076.9(c) as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 28th day of the month during which the milk was received at a rate per hundredweight not less than the statistical uniform price computed pursuant to § 1076.62(g) for the preceding month; and

(2) For milk received during the month the handler shall pay the cooperative association on or before the 15th day after the end of the month during which the milk was received as follows:

(i) The hundredweight of milk received times the producer price differential applicable at the location of the receiving handler's plant;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Less any payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for fluid milk products received by transfer from pool plant(s) operated by the cooperative association as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 28th day of the month during which the milk was received at a rate per hundredweight not less than the statistical uniform price computed pursuant to § 1076.62(g) adjusted by the butterfat differential, both for the preceding month; and

(2) For milk received and classified during the month the handler shall pay the cooperative association on or before the 15th day after the end of the month during which the milk was received, as follows:

(i) The hundredweight of Class I milk received times the Class I differential price for the month applicable at the transferee plant, plus the pounds of Class I skim milk times the skim milk price for the month;

(ii) The hundredweight of Class II milk received times the Class II differential price for the month;

(iii) [Reserved];

(iv) The pounds of butterfat received times the butterfat price for the month;

(v) The pounds of protein received in Class II and Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class II and Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II and Class III milk received times the somatic cell adjustment; and

(viii) Less any payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments for producer milk pursuant to paragraphs (a)(2) or

(b)(2) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and the identity of the producer;

(2) The daily and total pounds for each producer;

(3) The total pounds of butterfat contained in the producer's milk;

(4) The total pounds of protein contained in the producer's milk;

(5) The total pounds of other solids contained in the producer's milk;

(6) The somatic cell count of the producer's milk;

(7) The minimum rate or rates which payment to the producer is required pursuant to this order;

(8) The rate that is used in making payment if such rate is other than the applicable minimum rate;

(9) The amount, or the rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(10) The net amount of payment to such producer or cooperative.

11. Sections 1076.74 and 1076.75 are revised to read as follows:

#### **§ 1076.74 Butterfat differential.**

The butterfat differential, rounded to the nearest one-tenth cent, shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1076.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price as reported by the Department.

#### **§ 1076.75 Plant location adjustments for producers and on nonpool milk.**

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant of actual receipt at the rates set forth in § 1076.52; and

(b) For the purpose of computations pursuant to §§ 1076.71 and 1076.72 the producer price differential shall be adjusted at the rates set forth in § 1076.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted producer price differential shall not be less than zero.

12. Section 1076.76 is amended by removing the reference "§ 1076.71(a)(2)(ii)" in paragraph

(b)(1)(iii) and adding in its place "§ 1076.71(a)(2)(v)" and revising paragraphs (a)(4) and the last sentence of (b)(1)(ii) to read as follows:

#### **§ 1076.76 Payments by handler operating a partially regulated distributing plant.**

\* \* \* \* \*

(a) \* \* \*

(4) Multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both price to be applicable at the location of the partially regulated distributing plant, with the difference to be not less than zero; and

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* Any such transfers

remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1076.60 shall be priced at the statistical uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such statistical uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

\* \* \* \* \*

### **PART 1079—MILK IN THE IOWA MARKETING AREA**

1. Section 1079.30 is amended by removing paragraph (d) and revising paragraphs (a) and (c) to read as follows:

#### **§ 1079.30 Reports of receipts and utilization.**

\* \* \* \* \*

(a) Each handler described in § 1079.9 (a), (b), and (c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1079.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts by transfer or diversion of bulk fluid milk products from pool plants;

(ii) Receipts of fluid milk products not included in paragraph (a)(1) or (a)(2)(i)

of this section and bulk fluid cream products from any source;

(iii) Receipts of other source milk; and

(iv) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1079.40(b)(1);

(3) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to paragraph (a) of this section; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

\* \* \* \* \*

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

2. Section 1079.31 is amended by revising paragraph (a) to read as follows:

#### **§ 1079.31 Payroll reports.**

(a) On or before the 22nd day after the end of each month, each handler described in § 1079.9 (a), (b), or (c) shall report to the market administrator its producer payroll for such month in the detail prescribed by the market administrator, showing for each producer the information described in § 1079.73(e).

\* \* \* \* \*

3. Section 1079.50 is amended by revising the section heading, introductory text and paragraph (a), and adding paragraphs (e) through (l) to read as follows:

#### **§ 1079.50 Class and component prices.**

Subject to the provisions of § 1079.52, the class prices per hundredweight of milk containing 3.5 percent butterfat and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price for the month per hundredweight of milk containing 3.5 percent butterfat shall be the basic formula price for the second preceding month plus \$1.55.

\* \* \* \* \*

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the difference between the current month Class II and Class III prices (this price may be negative).

(g) *Class III—A differential price.* The Class III—A differential price shall be the

difference between the current month's Class III and Class III-A prices (this price may be negative).

(h) *Skim milk price.* The skim milk price per hundredweight, rounded to the nearest cent, shall be the Class III price less an amount computed by multiplying the butterfat differential by 35.

(i) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the Class III price plus an amount computed by multiplying the butterfat differential by 965 and dividing the resulting amount by one hundred.

(j) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent, shall be 1.32 times the average monthly price per pound for 40-pound block Cheddar cheese on the National Cheese Exchange as reported by the Department.

(k) *Other solids price.* Other solids are herein defined as solids not fat other than protein. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the basic formula price at test less the average butterfat test of the basic formula price as reported by the Department times the butterfat price, less the average protein test of the basic formula price as reported by the Department for the month times the protein price, and dividing the resulting amount by the average other solids test of the basic formula price as reported by the Department. If the resulting price is less than zero, then the protein price will be reduced so that the other solids price equals zero.

(l) *Somatic cell adjustment.* (1) The somatic cell adjustment rate, per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly cheddar cheese price as defined in paragraph (j) of this section; and

(2) The somatic cell adjustment, per hundredweight, shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk, multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

4. Section 1079.53 is revised to read as follows:

**§ 1079.53 Announcement of class and component prices.**

On or before the 5th day of the month, the market administrator shall announce the following prices:

(a) The Class I price for the following month;

(b) The Class II price for the following month;

(c) The Class III price for the preceding month;

(d) The Class III-A price for the preceding month;

(e) The skim milk price for the preceding month;

(f) The butterfat price for the preceding month;

(g) The protein price for the preceding month;

(h) The other solids price for the preceding month;

(i) The somatic cell adjustment rate for the preceding month; and

(j) The butterfat differential for the preceding month.

5. The section heading in § 1079.60 and the undesignated center heading preceding it, the introductory text, and paragraphs (a), (f), and (g) are revised to read as follows:

**Producer Price Differential**

**§ 1079.60 Handler's value of milk.**

For the purpose of computing a handler's obligation for milk the market administrator shall determine for each month the value of milk of each handler described in § 1079.9(a) with respect to each of its pool plants, and each handler described in § 1079.9 (b) and (c).

(a) The handler's obligation for producer milk and milk received from a handler described in § 1079.9(c) shall be computed as follows:

(1) Multiply the total hundredweight of milk in Class I as determined pursuant to § 1079.43(a) and § 1079.44(c) by the Class I differential price for the month;

(2) Add an amount obtained by multiplying the total hundredweight of milk in Class II as determined pursuant to § 1079.43(a) and § 1079.44(c) by the Class II differential price for the month;

(3) Add an amount obtained by multiplying the hundredweight of skim milk in Class I as determined pursuant to § 1079.43(a) and § 1079.44(a) by the skim milk price;

(4) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1079.43(a) and § 1079.44(a) by the average protein content of the skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price;

(5) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1079.43(a) and § 1079.44(a) by the average other solids content of the skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price;

(6) Add an adjustment for somatic cell content determined by multiplying the

value reported pursuant to § 1079.30(a)(1) by the percentage of the total producer milk assigned to Class II and Class III pursuant to §§ 1079.43(a) and 1079.44(c); and

(7) Add an amount obtained by multiplying the total hundredweight of producer milk eligible to be priced as Class III-A by the Class III-A differential price for the month;

\* \* \* \* \*

(f) Add the amount obtained from multiplying the Class I differential price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1079.43(d) and § 1079.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(11) and the corresponding steps of § 1079.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract for a handler described in § 1079.9(c) the amount charged the preceding month for the skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month;

\* \* \* \* \*

6. Section 1079.61 is amended by revising the section heading, introductory text, and paragraphs (a) and (e) to read as follows:

**§ 1079.61 Producer price differential.**

For each month the market administrator shall compute a producer price differential per hundredweight for Zone 1. If the unreserved cash balance in the producer settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made the payments required pursuant to § 1079.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:



(a) Combine into one total for all handlers:

(1) The values computed pursuant to § 1079.60 (a)(1), (a)(2), (a)(7), and (b) through (j) for all handlers; and

(2) Add values computed pursuant to § 1079.60 (a)(3), (a)(4), (a)(5) and (a)(6); and subtract the values obtained by multiplying the handlers' total pounds of protein and total pounds of other solids contained in such milk by their respective prices, and the total value of somatic cell adjustments;

\* \* \* \* \*

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be known as the "producer price differential."

7. Section 1079.62 is revised to read as follows:

**§ 1079.62 Announcement of producer prices.**

On or before the 12th day after the end of each month, the market administrator shall announce the following prices and information:

- (a) The producer price differential;
- (b) The protein price;
- (c) The other solids price;
- (d) The butterfat price;
- (e) The somatic cell adjustment rate;
- (f) The average butterfat, protein and other solids content of producer milk and milk received from a handler described in § 1079.9(c); and
- (g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

8. Section 1079.71 is amended by revising paragraph (a)(2) and adding and reserving paragraph (b) to read as follows:

**§ 1079.71 Payments to the producer-settlement fund.**

- (a) \* \* \*
- (2) The sum of:
  - (i) An amount obtained by multiplying the total hundredweight of producer milk and milk received from a handler described in § 1079.9(c) by the producer price differential as adjusted by § 1079.75. In the case of a handler described in § 1079.9(c), less the amount due from handlers pursuant to § 1079.73;
  - (ii) An amount obtained by multiplying the total pounds of protein contained in producer milk and milk received from a handler described in § 1079.9(c) by the protein price;
  - (iii) An amount obtained by multiplying the total pounds of other solids contained in producer milk and milk received from a handler described in § 1079.9(c) by the other solids price;

(iv) The total value of the somatic cell adjustment to producer milk and milk received from handlers described in § 1079.9(c); and

(v) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1079.60(f) by the producer price differential as adjusted pursuant to § 1079.52 for the location of the plant from which received.

(b) [Reserved].

9. Sections 1079.73, 1079.74 and 1079.75 are revised to read as follows:

**§ 1079.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay for milk received from producers for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the last day of each month, to each producer who has not discontinued shipping milk to such handler before the end of the month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the statistical uniform price computed pursuant to § 1079.62(g) for the preceding month and adjusted pursuant to § 1079.75, less proper deductions authorized in writing by such producer; and

(2) On or before the 18th day after the end of the month, payment for producer milk received during such month shall not be less than the sum of:

- (i) The hundredweight of producer milk received times the producer price differential adjusted pursuant to § 1079.75;
- (ii) The pounds of butterfat received times the butterfat price for the month;
- (iii) The pounds of protein received times the protein price for the month;
- (iv) The pounds of other solids received times the other solids price for the month;
- (v) The hundredweight of milk received times the somatic cell adjustment for the month;
- (vi) Less any payment made pursuant to paragraph (a)(1) of this section;
- (vii) Less proper authorized deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer;
- (viii) Less deductions for marketing services pursuant to § 1079.86; and
- (ix) If by such date the handler has not received full payment from the market administrator pursuant to § 1079.72 for such month, it may reduce pro rata its payment to producers by not more than the amount of such

underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to paragraph (a) of this section next following receipt of the balance due from the market administrator.

(b) Each handler shall pay a cooperative association as follows for milk received from producers if the cooperative association has filed a written request for payment with the handler and if the market administrator has determined that such cooperative association is authorized to collect payment:

(1) On or before the last day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section, less any deductions authorized in writing by such cooperative association; and

(2) On or before the 18th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(2) of this section, less proper deductions authorized in writing by such cooperative association.

(c) Each handler shall pay a cooperative association for milk received by the handler from a cooperative association acting as a handler described in § 1079.9(c) as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the last day of the month during which the milk was received at a rate per hundredweight not less than the statistical uniform price computed pursuant to § 1079.62(g), applicable at the location of the receiving handler's plant, for the preceding month; and

(2) For milk received during the month the handler shall pay the cooperative association on or before the 18th day after the end of the month during which the milk was received as follows:

- (i) The hundredweight of milk received times the producer price differential applicable at the location of the receiving handler's plant;
- (ii) The pounds of butterfat received times the butterfat price for the month;
- (iii) The pounds of protein received times the protein price for the month;
- (iv) The pounds of other solids received times the other solids price for the month;
- (v) The hundredweight of milk received times the somatic cell adjustment for the month; and
- (vi) Less any payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for fluid milk products received by transfer from pool plant(s) operated by a cooperative association as follows:

(1) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the last day of the month during which the milk was received at a rate per hundredweight not less than the statistical uniform price applicable at the transferee plant as computed pursuant to § 1079.62(g) and adjusted by the butterfat differential, both for the preceding month; and

(2) For milk received and classified during the month the handler shall pay the cooperative association on or before the 18th day after the end of the month during which the milk was received, as follows:

(i) The hundredweight of Class I milk received times the Class I differential price for the month applicable at the transferee plant, plus the pounds of Class I skim milk times the skim milk price for the month;

(ii) The hundredweight of Class II milk received times the Class II differential price for the month;

(iii) The hundredweight of Class III-A milk received times the Class III-A differential price for the month;

(iv) The pounds of butterfat received times the butterfat price for the month;

(v) The pounds of protein received in Class II and Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class II and Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II and Class III milk received times the somatic cell adjustment; and

(viii) Less any payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments for producer milk pursuant to paragraph (a)(2) or (b)(2) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and the identity of the producer;

(2) The daily and total pounds for each producer;

(3) The total pounds of butterfat contained in the producer's milk;

(4) The total pounds of protein contained in the producer's milk;

(5) The total pounds of other solids contained in the producer's milk;

(6) The somatic cell count of the producer's milk;

(7) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(8) The rate that is used in making payment if such rate is other than the applicable minimum rate;

(9) The amount, rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(10) The net amount of payment to such producer or cooperative.

#### § 1079.74 Butterfat differential.

The butterfat differential, rounded to the nearest one-tenth cent, shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1079.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price as reported by the Department.

#### § 1079.75 Plant location adjustments for producers and on nonpool milk.

(a) The producer price differential for producer milk pursuant to § 1079.61 received at a pool plant or diverted from a pool plant shall be reduced according to the location of the plant of actual receipt at the rates set forth in § 1079.52.

(b) For purposes of computations pursuant to §§ 1079.71 and 1079.72 the producer price differential shall be adjusted at the rates set forth in § 1079.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted producer price differential shall not be less than zero.

10. Section 1079.76 is amended by removing the reference "§ 1079.71(a)(2)(ii)" in paragraph (b)(1)(iii) and adding in its place "§ 1079.71(a)(2)(v)" and revising paragraph (a)(4) and the last sentence of paragraph (b)(1)(ii) to read as follows:

#### § 1079.76 Payments by handler operating a partially regulated distributing plant.

\* \* \* \* \*

(a) \* \* \*

(4) Multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant, with the difference to be not less than zero; and

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1079.60 shall be priced at the statistical uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such statistical uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

\* \* \* \* \*  
Dated: October 23, 1995.

Shirley R. Watkins,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-26894 Filed 11-13-95; 8:45 am]

BILLING CODE 3410-02-P

## Commodity Credit Corporation

### 7 CFR Part 1464

RIN 0560-AD91

### Tobacco; Tobacco Loan Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this final rule is to adopt, without change, the interim rule published in the Federal Register on May 1, 1995, (60 FR 21036). The interim rule amended the regulations to require that persons seeking tobacco price support must be in compliance with the crop insurance requirements implemented by the Federal Crop Insurance Corporation (FCIC). The crop insurance requirement is mandated amendments to the Federal Crop Insurance Act (FCIA) enacted in the Federal Crop Insurance Reform Act of 1994 ("1994 Act").

**EFFECTIVE DATE:** November 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Gary W. Wheeler, Tobacco Marketing Specialist, United States Department of Agriculture, Consolidated Farm Service Agency, P.O. Box 2415, Washington, D.C., 20013-2415, telephone 202-720-7562.

#### SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore,